IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRIMINAL APPEAL NO.746 SB OF 1995

DATE OF DECISION: APRIL 2, 2007

Hari Ram and others

.....Appellants

VERSUS

State of Haryana

....Respondent

CRIMINAL REVISION NO.131 OF 1995

Dharam Chand and others

.....Petitioners

VERSUS

Hari Ram and others

****.**...**Respondents

CORAM:- HON'BLE MR.JUSTICE RANJIT SINGH

1. **Whether Reporters of local papers may be allowed to see the judgement?**
2. **To be referred to the Reporters or not?**
3. **Whether the judgment should be reported in the Digest?**

PRESENT: Mr. S. S. Narula, Advocate,
for the appellants.

Mr. Dilbag Singh, AAG, Haryana,
for the State.

None for the petitioners.
(In Criminal Revision No.131 of 1995)

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RANJIT SINGH, J.

Though charged with and tried for offences under Sections 307,

323, 324, 325 read with Section 34 IPC, appellant Ashok son of Hari Ram is convicted for an offence under Section 326 IPC whereas the remaining appellants are convicted for offences under Sections 323, 324 and 325 IPC for causing simple injuries with blunt weapons only. Appellant Ashok was sentenced to suffer RI for 3 years for an offence under Section 326 IPC coupled with fine of Rs.500/- and in default of payment of fine, he was required to further undergo RI for 3 months. He was further directed to undergo RI for 2 years for an offence under Section 325 IPC with fine of Rs.300/- and in default of payment, further RI for two months. He was also sentenced to suffer RI for 1 year with fine of Rs.100/- and RI for six months with fine of Rs.100/- with further direction to undergo RI for 1 month in case of default of payment of fine for offences under Sections 324 and 323 IPC respectively. The remaining appellants namely Hari Ram, his wife Darshna and Pawan were given benefit of probation and released accordingly on execution of bond in the sum of Rs.2,000/- each. They were also directed to pay a sum of Rs.1,000/- as costs of proceedings.

This is a case where neighbours having adjoining shops have fought with each other. The quarrel took place on a very trivial issue relating to unloading of goods from the four-wheeler in front of the shop. Dharam Chand had lodged this complaint with the allegation that his brother Ram Niwas and son Nawal Kishore, injured, were standing in front of the shop, when Hari Ram accompanied by his two sons, Ashok and Pawan armed with Pharsa and Jailis retorted that they be taught a lesson. Ashok, thus, inflicted a pharsa blow on the head of Dharam Chand, complainant. He gave

another blow on his right foot. Appellant Pawan is alleged to have given jaili blow on the right shoulder and Hari Ram gave a thrust blow with jaili on the back. Hearing the cries, PW Nawal and his wife Tarawati got attracted to the scene. Appellant Darshana wife of Hari Ram also reached there armed with ***Thapi*** (piece of wood used for washing clothes). Appellant Hari Ram, his sons Ashok and Pawan then caused injuries to Ram Niwas and Nawal whereas Darshana allegedly gave blow with wooden Thapi to PW Tarawati. All the injured were removed to Community Health Centre, Jhajjar. On a complaint made by Dharam Chand, FIR was registered, leading to prosecution and the trial followed by sentence as noticed.

Learned counsel appearing for the appellants had not made any submission on merits of the case. He has pointed out that except for appellant, Ashok, remaining appellants were ordered to be released on probation. They have successfully completed the probation period without any complaint. Counsel accordingly pleads that no further directions are called for so far as the appeal of Hari Ram, Pawan and Darshna is concerned. Appellant Ashok Kumar, as already noticed, was sentenced to suffer RI for 3 years. Though he was charged and tried for an offence under Section 307 IPC but he was convicted under Section 326 IPC and other offences as already noticed. Counsel, thus, prays for release of appellant Ashok on probation as well mainly on the ground that it was a fight between the neighbours working in shops adjoining each other over a trivial issue. With the passage of time, they both have cooled down and now having friendly relations. In this regard, an indication can be have from the facts that though a revision was filed, seeking

enhancement of sentence by Dharam Chand, complainant, but no one has come present to make submission in the revision petition. Counsel for the appellants has drawn my attention to the cases of ***Mohan Singh Vs. State of Punjab,*** 2006 (1) RCR (Criminal) 872, ***Major Singh Vs. State of Punjab,*** 2005 (3) RCR (Criminal) 936 and ***State of Punjab Vs. Nasib Singh***, 2003 (3) RCR (Criminal) 304 where even after conviction for an offence under Section 326 IPC, order releasing the concerned appellant on probation was made.

Section 4 of the Probation of Offenders Act, 1958 provides that when any person is found guilty of having committed an offence not punishable with death or imprisonment for life, then the Court while finding guilty may consider it expedient to release him on probation of a good conduct. Since the offence under Section 326 IPC is punishable upto life imprisonment, it may not be very appropriate to direct release of appellant Ashok on probation. However, I see justification in the submission of counsel for the appellants that the offence in this case was committed on 14.2.1993 and the appellants were convicted on 24.11.1995. 3 of the co-accused of appellant Ashok were directed to be released on probation whereas he is living under the constant threat of sentence staring at him since November 1995. He, thus, has suffered the agony of the prosecution and sentence for the last 14 years. It is a case where the fight had taken place between two persons working in the shops adjoining each other and there is no major cause of this dispute. Rather, it was over a very trivial issue. It is disclosed during the course of arguments that the petitioner and respondent are now

living as a good neighbours forgetting about the past incident. In order to maintain good neighbourly relations between the parties, it would be appropriate to consider the case with compassion and leniency. Appellant Ashok has also undergone some portion of the sentence awarded to him. Asking him to undergo remaining portion of sentence at this belated stage may operate and appears to be harsh. Accordingly, while maintaining the conviction of the appellants, the sentence awarded to Ashok is ordered to be reduced to the period already undergone.

With the above modification in the sentence, the appeal is dismissed.

In Criminal Revision, no one has put in appearance on behalf of the petitioners to make submissions. Otherwise also, no ground for enhancement of sentence or award of compensation is made out.

Accordingly, Criminal Revision is also dismissed.

April 02, 2007 **(RANJIT SINGH)**
khurmi **JUDGE**